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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 130104009-3099-01]

RIN 0648-XC432

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; 2013-2014 Atlantic Bluefish Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes specifications for the 2013 and 2014 Atlantic bluefish fishery, including an annual catch limit, total allowable landings, a commercial quota and recreational harvest limit, and a recreational possession limit. The intent of this action is to establish the allowable 2013 and 2014 harvest levels and other management measures to achieve the target fishing mortality rate, consistent with the Atlantic Bluefish Fishery Management Plan.

DATES: Comments must be received on or before [insert date 15 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2013-0006, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-

[0006](#), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- Mail: Submit written comments to John Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930.
- Fax: (978) 281-9135, Attn: Carly Bari

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publically accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Copies of the specifications document, including the Environmental Assessment and Initial Regulatory Flexibility Analysis (EA/IRFA) and other supporting documents for the specifications, are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The specifications document is also accessible via the Internet at: <http://www.nero.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Carly Bari, Fishery Management Specialist, (978) 281-9224.

SUPPLEMENTARY INFORMATION:

Background

The Atlantic bluefish fishery is managed cooperatively by the Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission). The management unit for bluefish specified in the Atlantic Bluefish Fishery Management Plan (FMP) is U.S. waters of the western Atlantic Ocean. Regulations implementing the FMP appear at 50 CFR part 648, subparts A and J. The regulations requiring annual specifications are found at § 648.162.

The FMP requires the Council to recommend, on an annual basis, the annual catch limit (ACL), annual catch target (ACT), and total allowable landings (TAL) that will control fishing mortality (F). An estimate of annual discards is deducted from the ACT to calculate the TAL that can be harvested during the year by the commercial and recreational fishing sectors. The FMP requires that 17 percent of the ACT be allocated to the commercial fishery, with the remaining 83 percent allocated to the recreational fishery. The Council may also recommend a research set-aside (RSA) quota, which is deducted from the bluefish TAL (after any applicable transfer) in an amount proportional to the percentage of the overall TAL as allocated to the commercial and recreational sectors.

The annual review process for bluefish requires that the Council's Bluefish Monitoring Committee and Scientific and Statistical Committee (SSC) review and make recommendations based on the best available scientific information, including, but not limited to, commercial and recreational catch/landing statistics, current estimates of fishing mortality, stock abundance, discards for the recreational fishery, and juvenile recruitment. Based on the recommendations of the Monitoring Committee and SSC, the Council makes a recommendation to the NMFS Northeast Regional Administrator. Because this FMP is a joint plan, the Commission also meets during the annual specification process to adopt complementary measures.

The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. NMFS is responsible for reviewing these recommendations to ensure that they achieve the FMP objectives, and may modify them if they do not. NMFS then publishes proposed specifications in the Federal Register, and after considering public comment, NMFS will publish final specifications in the Federal Register.

Proposed Specifications

Updated Model Estimates

According to Amendment 1 to the FMP, overfishing for bluefish occurs when F exceeds the fishing mortality rate that allows maximum sustainable yield (F_{MSY}), or the maximum F threshold to be achieved. The stock is considered overfished if the biomass (B) falls below the minimum biomass threshold, which is defined as $\frac{1}{2} B_{MSY}$. Amendment 1 also established that the long-term target F is 90 percent of F_{MSY} ($F_{MSY} = 0.19$; therefore $F_{target} = 90$ percent of F_{MSY} , or 0.17), and the long-term target B is $B_{MSY} = 324$ million lb (147,052 mt).

An age-structured assessment program (ASAP) model for bluefish was approved by the 41st Stock Assessment Review Committee (SARC 41) in 2005 to estimate F and annual biomass. In June 2012, the ASAP model was updated in order to estimate the current status of the bluefish stock (i.e., 2011 biomass and F estimates) and enable the Monitoring Committee and SSC to recommend 2013 and 2014 specifications using landings information and survey indices through the 2011 fishing year. The results of the assessment update were as follows: (1) An estimated stock biomass for 2011, $B_{2011} = 292.972$ million lb (132,890 mt); and (2) an estimated fishing mortality rate for 2011, $F_{2011} = 0.114$. Based on the updated 2011 estimate of bluefish stock biomass, the bluefish stock is not considered overfished: B_{2011} is slightly less than B_{MSY} , but

well above the minimum biomass threshold, $\frac{1}{2} B_{MSY}$, of 162 million lb (73,526 mt). Estimates of F have declined from 0.41 in 1991 to 0.114 in 2011. The updated model results also conclude that the Atlantic bluefish stock is not experiencing overfishing; i.e., the most recent F ($F_{2011} = 0.114$) is less than the maximum F overfishing threshold specified by SARC 41 ($F_{MSY} = 0.19$). Bluefish was declared rebuilt in 2009.

2013 and 2014 Catch Limits

Following the framework implemented by the Council's ACL Omnibus Amendment, the Council recommended that ACL be set to acceptable biological catch (ABC) for 2013 (27.472 million lb, 12,461 mt) and for 2014 (27.057 million lb, 12,273 mt). No deductions were recommended to account for management uncertainty; therefore, $ABC=ACL=ACT$ for both years. The ACT is initially allocated between the recreational fishery (83 percent) and the commercial fishery (17 percent). After deducting an estimate of recreational discards (commercial discards are considered negligible), the recreational harvest limit (RHL) would be 19.190 million lb (8,704 mt) for 2013 and 18.846 million lb (8,548 mt) for 2014 and the commercial quota would be 4.670 million lb (2,118 mt) for 2013 and 4.60 million lb (2,087 mt) for 2014.

The FMP specifies that, if 17 percent of the TAL is less than 10.5 million lb, and the recreational fishery is not projected to land its harvest limit for the upcoming year, the commercial fishery may be allocated up to 10.5 million lb as its quota, provided that the combination of the projected recreational landings and the commercial quota does not exceed the TAL. The RHL would then be adjusted downward so that the TAL would be unchanged.

The Council projected an estimated annual recreational harvest for 2013 and 2014 of 14.069 million lb (6,381 mt). As such, it is expected that a transfer of up to 4.686 million lb

(2,125 mt) for 2013 and 4.342 million lb (1,969 mt) for 2014 from the recreational sector to the commercial sector could be approved. These options represent the preferred alternatives recommended by the Council in its specifications document. The actual transfer amount in the final rule, if any, will depend on the final 2012 recreational landings data.

RSA

For 2013, the Council preliminarily approved two research projects that would utilize bluefish RSA quota and forwarded them to NOAA's Grants Management Division. The Council preliminarily approved 715,819 lb (325 mt) of RSA quota for use by these projects during 2013. For 2014, the Council preliminarily approved 703,385 lb (319 mt) of RSA quota for future research projects. Proportional adjustments of these amounts to the commercial and recreational allocations would result in a final commercial quota of 9.076 million lb (4,117 mt) for 2013 and 8.674 million lb (3,934 mt) for 2014, and a final RHL of 14.069 million lb (6,381 mt) for both 2013 and 2014. NMFS staff will update the commercial and recreational allocations based on the final 2013 RSA awards as part of the final rule for the 2013 specifications.

Proposed Recreational Possession Limit

The Council recommended, and NMFS proposes, to maintain the current recreational possession limit of up to 15 fish per person to achieve the RHL for both 2013 and 2014.

Proposed State Commercial Allocations

The proposed state commercial allocations for the recommended 2013 and 2014 commercial quota are shown in Table 1, based on the percentages specified in the FMP. These quotas do not reflect any adjustments for quota overages that may have occurred in some states in 2012. Any potential deductions for states that exceeded their quota in 2012 will be accounted for in the final rule.

Table 1. Proposed Bluefish Commercial State-by-State Allocations for 2013 and 2014
(including RSA deductions).

State	Percent Share	2013 Council-Proposed Commercial Quota (lb)	2013 Council-Proposed Commercial Quota (kg)	2014 Council-Proposed Commercial Quota (lb)	2014 Council-Proposed Commercial Quota (kg)
ME	0.6685	60,673	27,521	57,985	26,302
NH	0.4145	37,620	17,064	35,953	16,308
MA	6.7167	609,606	276,513	582,603	264,264
RI	6.8081	617,902	280,276	590,531	267,860
CT	1.2663	114,929	52,131	109,838	49,822
NY	10.3851	942,549	427,533	900,797	408,595
NJ	14.8162	1,344,715	609,953	1,285,148	582,933
DE	1.8782	170,465	77,322	162,914	73,897
MD	3.0018	272,443	123,578	260,374	118,104
VA	11.8795	1,078,181	489,055	1,030,421	467,391
NC	32.0608	2,909,831	1,319,878	2,780,935	1,261,411
SC	0.0352	3,195	1,449	3,053	1,385
GA	0.0095	862	391	824	374
FL	10.0597	913,016	414,137	872,572	395,792
Total	100.0001	9,075,976	4,116,795	8,673,941	3,934,435

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Bluefish FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act

(RFA), which describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this preamble and in the SUMMARY. A summary of the analysis follows. A copy of this analysis is available from the Council (see ADDRESSES).

Small businesses operating in commercial and recreational (i.e., party and charter vessel operations) fisheries have been defined by the Small Business Administration as firms with gross revenues of up to \$4.0 and \$6.5 million, respectively. The categories of small entities likely to be affected by this action include commercial and charter/party vessel owners holding an active Federal permit for Atlantic bluefish, as well as owners of vessels that fish for Atlantic bluefish in state waters. All federally permitted vessels fall into the definition of small businesses; thus, there would be no disproportionate impacts between large and small entities as a result of the proposed rule.

An active participant in the commercial sector was defined as any vessel that reported having landed 1 or more lb (0.45 kg) in the Atlantic bluefish fishery in 2011 (the most recent year for which there are complete data). The active participants in the commercial sector were defined using two sets of data. The Northeast seafood dealer reports were used to identify 742 vessels that landed bluefish in states from Maine through North Carolina in 2011. However, the Northeast dealer database does not provide information about fishery participation in South Carolina, Georgia or Florida. South Atlantic Trip Ticket reports were used to identify 768 vessels that landed bluefish in North Carolina and 791 vessels that landed bluefish on Florida's east coast in 2011¹. Bluefish landings in South Carolina and Georgia were near zero in 2011,

¹ Some of these vessels were also identified in the Northeast dealer data; therefore, double counting is possible.

representing a negligible proportion of the total bluefish landings along the Atlantic Coast. Therefore, this analysis assumed that no vessel activity for these two states took place in 2011. In recent years, approximately 2,000 party/charter vessels may have been active in the bluefish fishery and/or have caught bluefish.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action. In addition, NMFS is not aware of any relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule.

The IRFA in the Draft EA addressed three alternatives (including a no action/status quo alternative) for the 2013 and 2014 Atlantic bluefish fishing years. All quota alternatives considered in this analysis are based on various commercial harvest levels for bluefish (a low, medium, and high level of harvest). For analysis of impacts of Alternatives 1 and 2 for both 2013 and 2014, the maximum potential RSA quota of 3 percent of the TAL (715,819 lb (324 mt) for 2013 and 703,385 lb (319 mt) for 2014) was used. For analysis of impacts of Alternative 3 for both years, the status quo RSA quota of 491,672 lb (223 mt) was used. For analysis of impacts of Alternative 1 for 2013, the recommended transfer of 4.686 million lb (2,125 mt) from the recreational sector to the commercial sector were used. Alternative 1 for 2014, the recommended transfer of 4.342 million lb (1,969 mt) was used. For analysis of impacts of Alternative 3 for 2013 and 2014, the transfer of 5.052 million lb (2,291 mt) from the recreational sector to the commercial sector was used, which is the same as the 2012 transfer amount. Under Alternative 2 for both 2013 and 2014, no transfer of bluefish would be made from the recreational sector to the commercial sector, and the allocation of the TAL would be based strictly on the percentages specified in the FMP (17 percent commercial, 83 percent recreational).

For 2013, Alternatives 1 and 2 would implement a TAL of 23.861 million lb (10,823 mt). For 2014, Alternatives 1 and 2 would implement a TAL of 23.446 million lb (10,635 mt). Alternative 3, for 2013 and 2014, would implement status quo management measures for both years, which would result in a TAL identical to the 2012 TAL, or 28.267 million lb (12,822 mt). The proposed 2013 and 2014 Atlantic bluefish specification alternatives are shown in Table 2, along with the resulting commercial quota and RHL after any applicable transfer described earlier in the preamble and after deduction of the RSA quota. Alternative 1 (Council's preferred) would allocate 9.076 million lb (4,117 mt) for 2013 and 8.674 million lb (3,934 mt) for 2014 to the commercial sector, and 14.096 million lb (6,381 mt) to the recreational sector for both 2013 and 2014. For 2013, Alternative 2 would result in the most restrictive commercial quota and would allocate 4.530 million lb (2,055 mt) to the commercial sector and leave 18.615 million lb (8,444 mt) available to the recreational sector. For 2014, Alternative 2 would also result in the most restrictive commercial quota and would allocate 4.462 million lb (2,024 mt) to the commercial sector and leave 18.281 million lb (8,292 mt) available to the recreational sector. For both 2013 and 2014, Alternative 3 (status quo) would allocate 10.317 million lb (4,680 mt) to the commercial sector and 17.457 million lb (7,918 mt) to the recreational sector. This alternative would also implement the status quo RSA level, which is currently approved for 491,672 lb (223 mt).

Table 2. Proposed 2013 and 2014 Atlantic Bluefish Specification Alternatives for TAL, Commercial Quota, and RHL.

Year	Alternatives	TAL (million lb)	TAL (mt)	Commercial Quota (million lb)	Commercial Quota (mt)	RHL (million lb)	RHL (mt)
2013	Alternative 1	23.861	10,823	9.076	4,117	14.096	6,381
	Alternative 2	23.861	10,823	4.530	2,044	18.615	8,444

	Alternative 3	28.267	12,822	10.317	4,680	17.457	7,918
2014	Alternative 1	23.446	10,635	8.674	3,934	14.096	6,381
	Alternative 2	23.446	10,635	4.462	2,024	18.281	8,292
	Alternative 3	28.267	12,822	10.317	4,680	17.457	7,918

Commercial Fishery Impacts

To assess the impact of the alternatives on commercial fisheries, the Council conducted a threshold analysis and analysis of potential changes in ex-vessel gross revenue that would result from each alternative, using Northeast dealer reports and South Atlantic Trip Ticket reports.

Under Alternative 1, the recommended commercial quota for 2013 is approximately 79 percent higher than 2011 commercial landings. When this commercial quota is distributed to the states from Maine to Florida (based on the percentages specified in the FMP), except for New York, each state's 2013 quota is higher than its 2011 landings. For New York, 2013 commercial landings would be constrained by the 2013 commercial quota under Alternative 1. The threshold analysis projected that 147 vessels could incur revenue losses of less than 5 percent and 9 vessels could incur revenue losses of 5 percent or more. Of the vessels likely to be impacted with revenue reductions of 5 percent or more, 22 percent had gross sales of \$1,000 or less and 44 percent had gross sales of \$10,000 or less, which may indicate that the dependence on fishing for some of these vessels is small. If commercial quota is transferred from a state or states that do not land their entire bluefish quota for 2013, as was done in 2011 and frequently in previous years, the number of affected entities could change, thus changing the adverse economic impact on vessels landing in the state(s) receiving quota transfers.

For 2013, Alternative 2 would result in a commercial quota 11 percent below the 2011 commercial landings. Although the overall commercial quota is lower than 2011 commercial landings, except for Massachusetts, Rhode Island, New York, New Jersey, and North Carolina,

each state's 2013 quota is higher than its 2011 landings. For these states (Massachusetts, Rhode Island, New York, New Jersey, and North Carolina), 2013 commercial landings would be constrained by the 2013 commercial quota under Alternative 2. The threshold analysis projected that 596 vessels could incur revenue losses of less than 5 percent and 67 vessels could incur revenue losses of 5 percent or more. Of the vessels likely to be impacted with revenue reductions of 5 percent or more, 19 percent had gross sales of \$1,000 or less and 55 percent had gross sales of \$10,000 or less, which may indicate that the dependence on fishing for some of these vessels is small.

Under Alternative 3, the 2013 commercial quota is approximately 103 percent higher than the 2011 commercial landings. Most states show a similar increase in fishing opportunities under this alternative; however, New York's 2013 commercial quota would be lower than its 2011 commercial landings. Analysis of Alternative 3 concluded that 586 vessels would likely have no change in revenue relative to 2011, 154 vessels were projected to incur revenue losses of less than 5 percent, and 2 vessels were projected to incur revenue loss of 5 percent or more.

Under Alternative 1, the recommended commercial quota for 2014 is approximately 71 percent higher than 2011 commercial landings. When this commercial quota is distributed to the states from Maine to Florida (based on the percentages specified in the FMP), except for New York, each state's 2014 quota is higher than its 2011 landings. For New York, 2014 commercial landings would be constrained by the 2014 commercial quota under Alternative 1. The threshold analysis projected that 147 vessels could incur revenue losses of less than 5 percent and 13 vessels could incur revenue losses of 5 percent or more. Of the vessels likely to be impacted with revenue reductions of 5 percent or more, 22 percent had gross sales of \$1,000 or less and 56 percent had gross sales of \$10,000 or less, which may indicate that the dependence on fishing for

some of these vessels is small. If commercial quota is transferred from a state or states that do not land their entire bluefish quota for 2014, as was done in 2011 and frequently in previous years, the number of affected entities could change, thus changing the adverse economic impact on vessels landing in the state(s) receiving quota transfers.

For 2014, Alternative 2 would result in a commercial quota 12 percent below the 2011 commercial landings. Although the overall commercial quota is lower than 2011 commercial landings, except for Massachusetts, Rhode Island, New York, New Jersey, and North Carolina, each state's 2014 quota is higher than its 2011 landings. For these states (Massachusetts, Rhode Island, New York, New Jersey, and North Carolina), 2014 commercial landings would be constrained by the 2014 commercial quota under Alternative 2. The threshold analysis projected that 594 vessels could incur revenue losses of less than 5 percent and 69 vessels could incur revenue losses of 5 percent or more. It is expected that the description of the impacted vessels under non-preferred Alternative 2 for 2013 would also apply to this alternative.

The commercial impacts under Alternative 3 for 2014 would be identical to the impacts described in Alternative 3 for 2013.

Recreational Fishery Impacts

In Alternative 1 for 2013, the recommended RHL for the recreational sector (14.096 million lb, 6,381 mt) is approximately 22 percent above the recreational landings for 2011 (11.499 million lb, 5,216 mt) and 21 percent below the RHL implemented for 2012 (17.457 million lb, 7,919 mt). It is not anticipated that the recommend RHL will result in decreased demand for party/charter boat trips or affect angler participation in a negative manner. At the present time, there are neither behavioral or demand data available to estimate how sensitive party/charter boat anglers might be to proposed fishing regulations. However, given the level of

the adjusted recreational harvest limit for 2013 and 2014 and recreational landings in recent years, it is likely that given the proposed recreational harvest limits under all alternatives evaluated, the demand for party/charter boat trips may not be negatively impacted. Overall, it is not expected that the final recreational management measures will affect gross revenues of businesses providing goods and services to anglers participating in the party/charter boat, private/rental boat, and shore fisheries for bluefish. For 2013, the impacts under Alternative 2 and 3 are expected to be similar to the recreational impacts under Alternative 1. The IRFA analyzed the maximum transfer amount from the recreational sector to the commercial sector, but future updates of recreational harvest projections could result in a smaller transfer amount, resulting in a higher RHL.

The 2013 RHL under Alternative 2 would be 62 percent higher than the recreational landings in 2011 and 7 percent higher than the 2012 RHL. Under Alternative 3, the 2013 RHL would be 52 percent higher than 2011 recreational landings and the same as the 2012 RHL. Thus, Alternatives 2 and 3 are not expected to have any negative effects on recreational fishermen or the demand for party/charter boat trips. In addition, neither of these alternatives are expected to result in recreational landings in excess of the RHL.

The recreational impacts for the 2014 alternatives are the same as those for the respective alternatives for 2013.

RSA Quota Impacts

For analysis of each alternative, the maximum RSA quota amount (3 percent of the TAL) was deducted from the initial overall TAL for 2013 and 2014 to derive the adjusted 2013 and 2014 commercial quotas and RHLs under each alternative. Thus, the threshold analyses for each alternative accounted for overall reductions in fishing opportunities due to RSA. Specifications

of RSA quota for 2013 and 2014 are expected to benefit all participants in the fishery as a result of improved data and information for management or stock assessment purposes.

Summary

The Council recommended Alternative 1 for both 2013 and 2014, over Alternatives 2 and 3, because it is projected to achieve the target F in 2013 and 2014, respectively, while providing the second least restrictive commercial quota among the alternatives analyzed. Alternative 2 was not recommended by the Council because it would yield the lowest commercial fishing opportunities among the alternatives due to an absence of a quota transfer under this alternative. Alternative 3 was not selected because it would be inconsistent with the advice of the SSC and the Monitoring Committee due to failing to make an effort to prevent overfishing.

Authority: 16 U.S.C. 1801 et seq.

Dated: February 12, 2013

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
performing the functions and duties of the
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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